IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Regular Second Appeal No. 3711 of 2006

Date of decision: 08.12.2006

Superintending Engineer, Sirhind, Canal Circle Ludhiana and others.

..... Appellants.

Versus

Sukh Ram

..... Respondent.

CORAM: HON'BLE MR. JUSTICE P.S. PATWALIA

Present:- Mr. G.C. Gupta , Advocate
for the appellants.

Mr. D.S. Guman, Advocate
for the respondent.

P.S. PATWALIA, J. (ORAL)

When notice of motion was issued in this regular second appeal the following order was passed:-

> "A reading of the judgment of the trial Court would show that two reasons were recorded for denying promotion to the plaintiff from 10.07.1991. The first reason was that he, respondent herein, has forgone his right to promotion. However, the defendants could not produce any letter or application on the basis of which it could be said that the

> plaintiff has foregone his right for promotion. The second ground pleaded was that since the plaintiff was arrested in a corruption case and was placed under suspension on 24.10.1991, he could not be promoted with effect from 10.07.1991 when persons junior to him were promoted. The trial Court has noted that firstly the plaintiff had been acquitted in the said case and secondly as on the date from which the promotion was being claimed even the case has not been registered. It is on this ground that the trial Court has held that the plaintiff was entitled to promotion from 10.07.1991.
>
> Learned counsel for the appellants has not been able to raise any meaningful argument to assail these findings. I am of the opinion that the said findings recorded by the trial Court and approved by the lower Appellate Court are as per law and warrant no interference.
>
> Learned counsel for the appellants then contends that this was not the case where interest at the rate of 18% per annum should have been granted on the arrears."

Learned counsel for the appellants submits that the courts below have erred in granting 18% interest to the plaintiff. He submits that interest is excessive and even if the plaintiff is to be now promoted 18% interest could not have been granted. On the other hand learned counsel for the respondent-plaintiff submits that it has been found concurrently by both the courts below that the plaintiff was entitled for promotion. He submits that had the plaintiff been promoted in time he was to be retired as Ziledar whereas actually he retired as Revenue Clerk. He has produced before me

a chart compilation showing that even bank interest from the year 1991 onwards was declared 8 to 9 % and the highest rate of interest on the deposit beyond five years was 13%. Therefore he submits that there is no error in the order granting interest passed by the Courts below as 18%.

On a consideration of the facts and circumstances of the case I am of the opinion that the interest as awarded 18% is excessive in the present case. I cannot lose sight of the fact that the plaintiff was involved in a criminal case though it is correct that he was ultimately acquitted from the same. Accordingly the interest should be reduced to 8% per annum.

With the aforesaid modification the judgment and decree of the trial court is affirmed.

8.12.2006 **(P.S. PATWALIA)**
dinesh **JUDGE**